

§ 1952.255

are made by Federal OSHA affecting the level of Federal enforcement in the Virgin Islands, discretionary Federal concurrent enforcement authority will be exercised in the following manner. Federal OSHA will exercise the full range of enforcement authority available under the Act, including but not limited to, issuance of citations under section 9 for violations of any requirement of section 5, of any standard, rule or order promulgated pursuant to section 6, or of any regulation prescribed pursuant to the Act; conduct of inspections and investigations under section 8; conduct of enforcement proceedings in contested cases under section 10; institution of proceedings to correct imminent dangers under section 13; and proposal of civil penalties or initiation of criminal proceedings for violations of the Act under section 17 with regard to occupational safety issues in the private sector. The Virgin Islands retains full authority under its approved State plan to continue to adopt and enforce occupational safety standards including issuing citations for violations thereof, proposing penalties and adjudicating contested cases under State law. Where State and Federal compliance officers conduct joint inspections, enforcement actions may be either Federal or State.

(b) Federal OSHA also continues to retain full authority over issues which have not been subject to State enforcement under the Virgin Islands plan. Thus, OSHA retains authority to enforce all provisions of the Act, Federal standards, rules, or orders which relate to occupational health in private sector employment in the Virgin Islands. OSHA also retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, Federal standards, rules, or orders specifically directed to maritime employment (*e.g.*, 29 CFR Part 1915, shipyard employment; 29 CFR Part 1917, marine terminals; 29 CFR Part 1918, longshoring; 29 CFR Part 1919, gear certification), as well as provisions of general industry and construction standards (29 CFR Parts 1910 and 1926) appropriate to hazards found in these employments. Federal jurisdiction is retained with respect to Fed-

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eral government employers and employees; and the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations. Federal jurisdiction is also retained and exercised by the Employment Standards Administration, U.S. Department of Labor, (Secretary's Order 5-96, dated December 27, 1996) with respect to the field sanitation standard, 29 CFR 1928.110, and the enforcement of the temporary labor camps standard, 29 CFR 1910.142, in agriculture, as described in § 1952.253(b).

(c) The Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees. Any Federal standards, including any standards promulgated or modified during the period of the Virgin Islands final approval under section 18(e), are now enforceable by Federal OSHA.

(d) The Assistant Secretary also retains authority to continue to conduct investigations and inspections for the purpose of the evaluation of the Virgin Islands State plan under section 18 (e) and (f) of the Act. The Regional Administrator will closely monitor State performance and corrective action and make prompt recommendation to the Assistant Secretary for either reinstatement of the Virgin Islands final approval status or initiation of plan withdrawal action. Federal enforcement authority will continue to be exercised to the extent necessary to assure occupational safety and health protection to employees in the Virgin Islands until further notice.

[60 FR 56951, Nov. 13, 1995, as amended at 62 FR 2563, Jan. 17, 1997; 65 FR 36626, June 9, 2000]

§ 1952.255 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected

and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N3700, Washington, DC 20210;

Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 201 Varick Street, Room 670, New York, New York 10014.

Office of the Commissioner, Virgin Islands Department of Labor, 16-AB Church Street, St. Croix, Virgin Islands 00820-4666.

[65 FR 36626, June 9, 2000]

§ 1952.256 Changes to approved plans.

(a) *Legislation.* (1) On March 29, 1994, the Assistant Secretary approved Virgin Islands' revised statutory penalty levels which are the same as the revised Federal penalty levels contained in section 17 of the Act as amended on November 5, 1990.

(2) [Reserved]

(b) *Temporary labor camps/field sanitation.* Effective February 3, 1997, the Assistant Secretary approved the Virgin Island's plan amendment, dated July 31, 1996, relinquishing coverage for the issues of field sanitation (29 CFR 1928.110) and temporary labor camps (29 CFR 1910.142) in agriculture (except for agricultural temporary labor camps associated with egg, poultry or red meat production, or the post-harvest processing of agricultural or horticultural commodities.) The Employment Standards Administration, U.S. Department of Labor, has assumed responsibility for enforcement of these Federal OSHA standards in agriculture in the Virgin Islands pursuant to Secretary of Labor's Order 5-96, dated December 27, 1996.

[59 FR 14556, Mar. 29, 1994, as amended at 62 FR 2564, Jan. 17, 1997]

Subpart T—Michigan

§ 1952.260 Description of the plan as initially approved.

(a) The plan identifies the Michigan Department of Labor and the Department of Public Health as the agencies to be responsible for administering the plan throughout the State. The Department of Labor will be responsible for promulgating and enforcing general

safety and construction safety standards while the Department of Public Health will be responsible for the promulgation and enforcement of occupational health standards. Two independent commissions within the Department of Labor, the Construction Safety Commission and the Occupational Safety Standards Commission will promulgate general and construction safety standards while the Director of Public Health will promulgate health standards. Applications for variances to standards will be handled by the two Departments. Administrative adjudications will be the responsibility of the Occupational Safety Compliance and Appeals Board, the Construction Safety Compliance and Appeals Board, and the Occupational Health Review Commission.

(b) The State program is expected to extend its protection to all employees in the State (including those employed by it and its political subdivisions) except those employed by Federal agencies, maritime workers, household domestic workers, and mine workers.

(c) The Plan provides that the State agencies will have full authority to administer and to enforce all laws, rules and orders protecting employee safety and health in all places of employment in the State. It also proposes procedures for providing prompt and effective standards for the protection of employees against new and unforeseen hazards, and for furnishing information to employees on hazards, precautions, symptoms, and emergency treatment, and procedures for variances and the protection of employees from hazards. It further, provides employer and employee representatives an opportunity to accompany inspectors and call attention to possible violations before, during and after inspections, protection of employees against discharge or discrimination in terms and conditions of employment, notice to employees or their representatives when no compliance action is taken upon complaints, including informal review, notice to employees of their protections and obligations, adequate safeguards to protect trade secrets, prompt notice to employers and employees of alleged violations of standards and abatement requirements, effective remedies